

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Chris Langer,
Plaintiff,

v.

13800 San Antonio, LLC, a
California Limited Liability
Company;
Joo Hyun Han; and Does 1-10,
Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For Violations
Of:** American's With Disabilities
Act; Unruh Civil Rights Act

Plaintiff Chris Langer complains of Defendants 13800 San Antonio, LLC, a California Limited Liability Company; Joo Hyun Han; and Does 1-10 ("Defendants"), and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the State

1 of California.

2 2. Defendant 13800 San Antonio, LLC owned the real property located at
3 or about 13806 San Antonio Dr., Norwalk, California, in May 2018.

4 3. Defendant 13800 San Antonio, LLC owns the real property located at
5 or about 13806 San Antonio Dr., Norwalk, California, currently.

6 4. Defendant Joo Hyun Han owned the San Antonio Spirit Shop located at
7 or about 13806 San Antonio Dr., Norwalk, California, in May 2018.

8 5. Defendant Joo Hyun Han owns the San Antonio Spirit Shop ("Store")
9 located at or about 13806 San Antonio Dr., Norwalk, California, currently.

10 6. Plaintiff does not know the true names of Defendants, their business
11 capacities, their ownership connection to the property and business, or their
12 relative responsibilities in causing the access violations herein complained of,
13 and alleges a joint venture and common enterprise by all such Defendants.
14 Plaintiff is informed and believes that each of the Defendants herein,
15 including Does 1 through 10, inclusive, is responsible in some capacity for the
16 events herein alleged, or is a necessary party for obtaining appropriate relief.
17 Plaintiff will seek leave to amend when the true names, capacities,
18 connections, and responsibilities of the Defendants and Does 1 through 10,
19 inclusive, are ascertained.

20
21 **JURISDICTION & VENUE:**

22 7. The Court has subject matter jurisdiction over the action pursuant to 28
23 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
24 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

25 8. Pursuant to supplemental jurisdiction, an attendant and related cause
26 of action, arising from the same nucleus of operative facts and arising out of
27 the same transactions, is also brought under California's Unruh Civil Rights
28 Act, which act expressly incorporates the Americans with Disabilities Act.

1 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
2 founded on the fact that the real property which is the subject of this action is
3 located in this district and that Plaintiff's cause of action arose in this district.
4

5 **FACTUAL ALLEGATIONS:**

6 10. Plaintiff went to the Store in May 2018 to shop.

7 11. The Store is a facility open to the public, a place of public
8 accommodation, and a business establishment.

9 12. Paths of travel are another one of the facilities, privileges and
10 advantages offered by defendants to patrons of the Store.

11 13. Although there were shelves and merchandise aisles open to customers
12 for shopping, the paths of travel in and throughout these merchandise aisles
13 were not accessible because the defendants had a practice of placing
14 merchandise and merchandise display on the route of travel restricting
15 passage to less than 36 inches in width.

16 14. In fact, the average path of travel throughout the store is 38 inches wide
17 and the narrowest pathway is 16 inches wide. This is simply too narrow for
18 plaintiff.

19 15. Currently, although there are shelves and merchandise aisles open to
20 customers for shopping, paths of travel in and throughout these merchandise
21 aisles are not accessible to wheelchair users because the defendants have a
22 practice of placing merchandise and merchandise display on the route of travel
23 restricting passage to less than 36 inches in width.

24 16. Transaction counters are also one of the facilities, privileges, and
25 advantages offered by Defendants to patrons of the Store.

26 17. Meanwhile, the transaction counter at the Store is more than 36 inches
27 in height. In fact, the transaction counter is 38 inches high.

28 18. There is no lowered, 36 inch portion of the transaction counter at the

1 Store for use by persons in wheelchairs.

2 19. Parking spaces are one of the facilities, privileges, and advantages
3 offered by Defendants to patrons of the Store.

4 20. Unfortunately, even though there were parking spaces marked and
5 reserved for persons with disabilities in the parking lot where the Store is
6 located during Plaintiff's visit, all the parking stalls and access aisles were not
7 level with each other because there were built up curb ramps running into the
8 access aisles.

9 21. These curb ramps caused slopes greater than 2.1%.

10 22. Additionally, the parking stalls and access aisles had slopes greater than
11 2.1%.

12 23. Currently, these curb ramps cause slopes greater than 2.1%.

13 24. Currently, the parking stalls and access aisles are not level with each
14 other and there are inaccessible slopes in both the access aisles and parking
15 stalls.

16 25. Plaintiff personally encountered these barriers.

17 26. These inaccessible conditions denied the plaintiff full and equal access
18 and caused him difficulty, discomfort, and embarrassment.

19 27. Plaintiff plans to return and patronize the Store but is deterred from
20 visiting until the defendants remove the barriers.

21 28. The defendants have failed to maintain in working and useable
22 conditions those features required to provide ready access to persons with
23 disabilities.

24 29. The barriers identified above are easily removed without much
25 difficulty or expense. They are the types of barriers identified by the
26 Department of Justice as presumably readily achievable to remove and, in fact,
27 these barriers are readily achievable to remove. Moreover, there are numerous
28 alternative accommodations that could be made to provide a greater level of

1 access if complete removal were not achievable.

2 30. For example, there are numerous paint/stripe companies that will come
3 and stripe a level parking stall and access aisle and install proper signage on
4 rapid notice, with very modest expense, sometimes as low as \$300 in full
5 compliance with federal and state access standards.

6 31. Another common barrier removal project is modifying transaction
7 counters to make a portion of the counter accessible. This is a simple
8 construction task, well within the capabilities of any general contractor. The
9 task can be completed easily and for a modest price.

10 32. Plaintiff is deterred from returning and patronizing the Store because of
11 his knowledge of the barriers that exist. Plaintiff will, nonetheless, return to
12 assess ongoing compliance with the ADA and will return to patronize the Store
13 as a customer once the barriers are removed.

14 33. Given the obvious and blatant nature of the violations and barriers
15 alleged herein, the plaintiff alleges, on information and belief, that there are
16 other violations and barriers on the site that relate to his disability. Plaintiff will
17 amend the Complaint to provide proper notice regarding the scope of this
18 lawsuit once he conducts a site inspection. However, please be on notice that
19 the plaintiff seeks to have all barriers related to his disability remedied. See
20 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff
21 encounters one barrier at a site, he can sue to have all barriers that relate to her
22 disability removed regardless of whether he personally encountered them).

23
24 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
25 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
26 Defendants.) (42 U.S.C. section 12101, et seq.)

27 34. Plaintiff re-pleads and incorporates by reference, as if fully set forth
28 again herein, the allegations contained in all prior paragraphs of this

1 complaint.

2 35. Under the ADA, it is an act of discrimination to fail to ensure that the
3 privileges, advantages, accommodations, facilities, goods and services of any
4 place of public accommodation is offered on a full and equal basis by anyone
5 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.
6 § 12182(a). Discrimination is defined, inter alia, as follows:

- 7 a. A failure to make reasonable modifications in policies, practices,
8 or procedures, when such modifications are necessary to afford
9 goods, services, facilities, privileges, advantages, or
10 accommodations to individuals with disabilities, unless the
11 accommodation would work a fundamental alteration of those
12 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 13 b. A failure to remove architectural barriers where such removal is
14 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
15 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,
16 Appendix “D.”
- 17 c. A failure to make alterations in such a manner that, to the
18 maximum extent feasible, the altered portions of the facility are
19 readily accessible to and usable by individuals with disabilities,
20 including individuals who use wheelchairs or to ensure that, to the
21 maximum extent feasible, the path of travel to the altered area and
22 the bathrooms, telephones, and drinking fountains serving the
23 altered area, are readily accessible to and usable by individuals
24 with disabilities. 42 U.S.C. § 12183(a)(2).

25 36. Under the 1991 Standards, parking spaces and access aisles must be
26 level with surface slopes not exceeding 1:50 (2%) in all directions. 1991
27 Standards § 4.6.3. Here, the access aisle is not level and has a ramp taking up
28 part of the access aisle. Under the 2010 Standards, access aisles shall be at the

1 same level as the parking spaces they serve. Changes in level are not
2 permitted. 2010 Standards 502.4. "Access aisle are required to be nearly level
3 in all directions to provide a surface for wheelchair transfer to and from
4 vehicles." 2010 Standards § 502.4 Advisory. Specifically, built up curb ramps
5 are not permitted to project into access aisles and parking spaces. *Id.* No more
6 than a 1:48 slope is permitted. 2010 Standards § 502.4.

7 37. Here, the failure to provide level parking is a violation of the law.

8 38. Shelves and display units allowing self-service by customers at stores
9 must be located on an accessible route. 1991 Standards § 4.1.3(12)(b). An
10 accessible route must be at least 36 inches in width. 1991 Standards § 4.3.3.

11 39. Here, the failure to provide accessible paths of travel in and throughout
12 the merchandise aisles is a violation of the law.

13 40. In areas used for transactions where counters have cash registers and
14 are provided for sales or distribution of goods or services to the public, at least
15 one of each type shall have a portion of the counter which is at least 36 inches
16 in length with a maximum height of 36 inches above the floor. 1991 Standards
17 § 7.2(1). Under the 2010 Standards, where the approach to the sales or service
18 counter is a parallel approach, such as in this case, there must be a portion of
19 the sales counter that is no higher than 36 inches above the floor and 36 inches
20 in width and must extend the same depth as the rest of the sales or service
21 counter top. 2010 Standards § 904.4 & 904.4.1.

22 41. Here, no such accessible counter has been provided in violation of the
23 ADA.

24 42. A public accommodation must maintain in operable working condition
25 those features of its facilities and equipment that are required to be readily
26 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

27 43. Here, the failure to ensure that the accessible facilities were available
28 and ready to be used by the plaintiff is a violation of the law.

1 44. Given its location and options, plaintiff will continue to desire to
2 patronize the Store but he has been and will continue to be discriminated
3 against due to the lack of accessible facilities and, therefore, seeks injunctive
4 relief to remove the barriers.

5
6 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
7 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.
8 Code § 51-53.)

9 45. Plaintiff repleads and incorporates by reference, as if fully set forth
10 again herein, the allegations contained in all prior paragraphs of this
11 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,
12 that persons with disabilities are entitled to full and equal accommodations,
13 advantages, facilities, privileges, or services in all business establishment of
14 every kind whatsoever within the jurisdiction of the State of California. Cal.
15 Civ. Code §51(b).

16 46. The Unruh Act provides that a violation of the ADA is a violation of the
17 Unruh Act. Cal. Civ. Code, § 51(f).

18 47. Defendants’ acts and omissions, as herein alleged, have violated the
19 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s
20 rights to full and equal use of the accommodations, advantages, facilities,
21 privileges, or services offered.

22 48. Because the violation of the Unruh Civil Rights Act resulted in difficulty,
23 discomfort or embarrassment for the plaintiff, the defendants are also each
24 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-
25 (c).)

1 **PRAYER:**

2 Wherefore, Plaintiff prays that this Court award damages and provide
3 relief as follows:

4 1. For injunctive relief, compelling Defendants to comply with the
5 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
6 plaintiff is not invoking section 55 of the California Civil Code and is not
7 seeking injunctive relief under the Disabled Persons Act at all.

8 2. Damages under the Unruh Civil Rights Act, which provides for actual
9 damages and a statutory minimum of \$4,000.

10 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
11 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

12
13 Dated: June 1, 2018

CENTER FOR DISABILITY ACCESS

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16 By:

17 _____
18 Chris Carson, Esq.
19 Attorney for plaintiff
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